

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 98-385-T - ORDER NO. 1999-21

JANUARY 12, 1999

IN RE: Application of AllSafe Moving Services, Inc.,) ORDER GRANTING ✓ MR
1885 Mealy Street, Atlantic Beach, FL 32233,) SUPPLEMENTAL
for a Class E Certificate of Public) HEARING
Convenience and Necessity.)

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on the Application of AllSafe Moving Service, Inc., 1885 Mealy Street, Atlantic Beach, Florida 32233 (“AllSafe” or “the Company”) for a Class E Certificate of Public Convenience and Necessity to transport household goods as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210 (1):

Between Points and Places in South Carolina.

The Commission’s Executive Director required AllSafe to publish, one time, a Notice of Filing in newspapers of general circulation in the area in which service is sought. The Notice of Filing informed interested persons of the manner and time to participate in this case before the Commission. The Company complied with the instructions of the Executive Director and filed affidavits of publication as proof of compliance. No Petitions to Intervene or letters of protest concerning AllSafe’s Application were received by the Commission.

A hearing was held on this matter on December 16, 1998, at 11:30 a.m. in the Commission’s Hearing Room at 101 Executive Center Drive, Columbia, South Carolina.

The Honorable Philip T. Bradley, Chairman, presided. AllSafe was represented by Bonnie D. Shealy, Esquire. AllSafe presented James Braswell, Bruce Hoffmann, and Thomas R. Feagin as witnesses. The Commission Staff was represented by Florence P. Belser, Staff Counsel. Staff did not present a witness.

James Braswell, President of AllSafe, testified in support of AllSafe's application for authority. Mr. Braswell offered testimony regarding AllSafe's qualifications as "fit, willing, and able" to perform household goods moving services in South Carolina. Mr. Braswell described his company and testified regarding AllSafe's experience, marketing of services, financial abilities, equipment, maintenance, and rates and charges.

Mr. Braswell stated that AllSafe is trying to expand and desires to establish a local presence in South Carolina. Mr. Braswell testified that AllSafe desires to perform intrastate as well as interstate moves. He indicated that South Carolina is a good market in which to obtain intrastate authority and also indicated that an office as a South Carolina office would assist in AllSafe's interstate business. Mr. Braswell stated that AllSafe has a lot of customers wanting to move to South Carolina and having employees in the state will enable AllSafe to provide lower prices to those customers making interstate moves.

Mr. Braswell offered that granting AllSafe authority would not have an adverse impact on other movers in the state. Mr. Braswell stated his belief and understanding that South Carolina is growing and that its population is increasing. Mr. Braswell further stated that he did not believe that granting authority to AllSafe would impact existing

moving services but would maintain, and possibly enhance, the quality of service through competition.

When asked about specific areas of the state that AllSafe intended to serve, Mr. Braswell stated that the two primary areas which he intends to serve are the Columbia area and the Greenville, Spartanburg, Anderson area. If approved to operate in South Carolina, Mr. Braswell stated that AllSafe would initially open an office in the Columbia area and then look to open an office in the Greenville, Spartanburg, Anderson area.

Bruce Hoffman, owner of Hoffman Insurance Services in Charleston, appeared and also testified. Hoffman Insurance Services is an independent insurance agency specializing in industrial and commercial clients for property and casualty insurance. When asked to describe South Carolina's economic situation from his experience in the insurance industry, Mr. Hoffman stated that in the Charleston area the economy is expanding. Mr. Hoffman stated that new businesses are starting and employment has increased, and he summarized that Charleston is a quite active market. As further evidence of the growth and active residential market in the Charleston area, Mr. Hoffman testified that he is building a new house and stated that it has taken six months for a builder to return his call. Mr. Hoffman stated that houses and multi-family dwellings are "going up everywhere in Charleston." Mr. Hoffman also testified that he is the insurance agent for Mr. Braswell and that AllSafe has obtained insurance coverage through Hoffman Insurance Services.

Also testifying in support of AllSafe was Thomas R. Feagin. Mr. Feagin is the Chief Financial Officer of Braswell Services Group in Charleston. According to Mr.

Feagin, Braswell Services Group is primarily a ship repair company whose home base is in Charleston. Braswell Services Group also has current operations in Jacksonville, Florida and Corpus Christi, Texas as well as a site in Brunswick, Georgia. Mr. Feagin testified that AllSafe has performed commercial office moves for Braswell Services Group in Charleston and that the moves were completed satisfactorily. Mr. Feagin testified that he helped arrange the office moves for the company. When asked if he had difficulty finding a mover, Mr. Feagin stated that he did not have difficulty finding a mover but did have difficulty finding a mover when he was ready.

The testimony in this case is troublesome to this Commission. The President of the Company testified that Allsafe intended to open an office in the Columbia area initially, followed by one in the Greenville, Spartanburg, Anderson area. The testimony presented by the shipper witnesses does not address these areas specifically, but only discusses the state of the public convenience and necessity in the Charleston area. Therefore, the shipper testimony only refers to a small portion of the state in a proceeding on an Application for state-wide authority. Normally, we would deny the Application, based on the deficiency in the testimony pointed out above. However, we are under the impression that the law in these cases may be misperceived at times, especially in cases such as the one at bar where there are no intervenors. We will therefore take this opportunity to explicate the law on what an Applicant must show in order to be granted a Class E Certificate of Public Convenience and Necessity.

S.C. Code Ann. Section 58-23-590 (Supp. 1998) specifically delineates an applicant's burden of proof in order to be granted such a Certificate. First, the applicant

must prove to this Commission that it is fit, willing, and able to properly perform the proposed service and comply with the statutes and the Commission's regulations. Second, it must be shown by the applicant that the proposed service, to the extent to be authorized by the certificate, is required by the present public convenience and necessity. Next, Commission Regulation 103-133 specifically defines what an applicant must demonstrate to the Commission to prove that it is fit, willing, and able to properly perform the proposed service. That regulation also requires that shipper witnesses must be used to show the public convenience and necessity criterion. We hold that all of these requirements must be met to justify the granting of a Certificate, including compliance with all Commission statutes and regulations, whether or not intervenors are participating in the particular case.

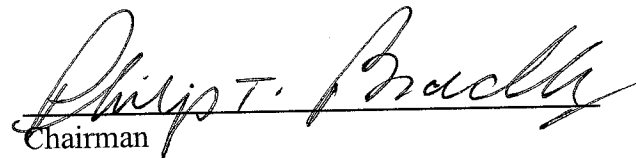
We would note that there may have been a misunderstanding on the applicability of all the criteria in cases where there were no intervenors, and, therefore, no opposition. In the present case, the shipper witness testimony failed to show that the proposed statewide service was required by the public convenience and necessity, since the testimony really only addressed the situation in the Charleston area. However, because of the potential misunderstanding as described above, we hereby hold that AllSafe be granted another hearing, so that it may properly address all of the necessary criteria for the granting of a Certificate, including the public convenience and necessity criterion. That hearing will be conducted subject to this Order, and there should be no doubt as to what the Applicant must prove to the Commission, or what the Applicant must show in order to obtain the Certificate from this Commission.

We hereby caution the Applicant and any interested persons that we do not normally allow “two bites at the apple,” nor will we, in the usual case, allow an Applicant to immediately have another hearing after failing to prove his case initially. We consider the present case to be in the “one of a kind” category, so that we can be sure that the law is fully explicated. Future Applicants need not cite this case for the proposition that they should immediately be granted another hearing should they fail to prove their case at the first juncture. Future Applicants who are deemed by us to have failed to have proven their cases must either ask for reconsideration, as delineated in the regulations, or wait for the statutory time period to elapse before filing a new Application. Waiting to file a new Application is also appropriate for those whose reconsideration requests are denied.

Accordingly, the Staff will issue a new Notice of Filing and Supplemental Hearing in this matter, and the matter shall be set for another hearing as the Commission calendar may allow.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)